



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 10, 1998

Ms. Joni M. Vollman
Assistant General Counsel
Office of the District Attorney
District Attorney's Building
201 Fannin, Suite 200
Houston, Texas 77002-1901

OR98-2662

Dear Ms. Vollman:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 119458

The Harris County District Attorney's Office (the "district attorney") received a request to make available for inspection and copying its files in two cases, cause numbered 9819798 and 96742806. You represent that you have released "front page" information in these cases and you contend that the remaining documents responsive to this request are excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the documents you submitted.


Government Code section 552.108 (b)(3)(a) exempts from disclosure the internal record or notation of a prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution and that is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation. You represent that the materials designated as your Exhibit "A" are the "work product" of the prosecutors of the Harris County District Attorney's Office. We construe this as a representation that these materials were prepared *in toto* by an attorney. Based on this representation and our examination of the documents, we conclude that these materials may be excepted from disclosure by 552.108 of the Government Code. We note, however, that you must provide the requestor with the basic front page offense report information in the submitted documents, including a detailed description of the offense. Section 552.108 does not except from disclosure "basic information about an arrested person, an arrest, or a crime." Front page offense report information is the basic information required to be disclosed. *See generally Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976);

Open Records Decision No. 127 (1976).¹ Therefore, we conclude that, except for basic front page information, the requested records in exhibit "A" may be withheld under section 552.108 of the Government Code

You next contend that the documents you submitted to this office as Exhibit "B" are excepted from public disclosure pursuant to section 552.101 of the Government Code, which protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Exhibit "B" consists of criminal history record information ("CHRI"). We agree that the district attorney must withhold, pursuant to statutory law, all criminal history information obtained from the TCIC and NCIC. The dissemination of CHRI obtained from the NCIC network is limited by federal law. See 28 C.F.R. § 20.1; Open Records Decision No. 565 at 10-12. (1990). The federal regulations allow each state to follow its individual law with respect to CHRI it generates. Open Records Decision No. 565 at 10-12 (1990). Sections 411.083(b)(1) and 411.089(a) of the Government Code authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may not release the CHRI except to another criminal justice agency for a criminal justice purpose. Government Code § 411.089(b)(1). Thus, any CHRI generated by the federal government or another state may not be made available to the requestor except in accordance with federal regulations. Furthermore, any CHRI obtained from the Texas Department of Public Safety or any other criminal justice agency must be withheld as provided by Government Code chapter 411, subchapter F. The district attorney therefore must withhold any criminal history information obtained from the TCIC and NCIC pursuant to section 552.101 of the Government Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Michael J. Burns
Assistant Attorney General
Open Records Division

MJB/ch

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¹The content of the information determines whether it must be released in compliance with *Houston Chronicle*, not its literal location on the first page of an offense report. Open Records Decision No. 127 (1976) contains a summary of the types of information deemed public by *Houston Chronicle*.

Enclosures: Submitted documents

cc: Ms. Gretchen Sonnier
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(w/o enclosures)